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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,447

10/27/2003

Timothy K. Rohrberg

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7590

10/05/2005

Giaccherini
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EXAMINER

SHIMIZU, MATSUICHIRO

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,447

Applicant(s)

ROHRBERG ET AL.

Examiner

Matsuichiro Shimizu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/3/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Specification

1). Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

This application is claiming the benefit of a prior filed nonprovisional application under 35 U.S.C. 120, 121, or 365 (c). Copendency between the current applicant and the prior application is required.

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

2). Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract should avoid using the phrase "The present invention" (ABSTRACT, line 3) which can be implied.

Drawings

1). The drawings are objected to because drawing numbers must be renumbered in view of deleted drawings Figures 43, 44, 47 and 48 filed on 5/3/04. Furthermore, correction to specification with respect to renumbered figures must be included. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement

drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2). The drawings are objected to because: Regarding Figure 26, "FD " should be corrected to "ED". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Non-Statutory Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

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USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1–20 are rejected under the judicially created doctrine of obviousness–type double patenting as being unpatentable over claims 1–14 of U.S. Patent No. 6,509,829. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are generally *broader* than the claims in the patent. Broader claims in a later application constitute obvious double patenting of narrow claims in an issued patent. See In re Van Ornum and Stang, 214, USPQ 761, 766 and 767 (CCPA) (the court sustained an obvious double patenting rejection of generic claims in a continuation application over narrower species claims in an issued patent); In re Vogel, 164 USPQ 619, 622, and 623 (CCPA 1970) (generic application claim specifying “meat” is obvious double patenting of narrow patent claim specifying “pork”).

With respect to claim 14, the artisan recognizes that the transmitter board is *analogous* to the molded housing which is adapted to be fitted into the power receptacle wherein the power wire, ground wire are each connected to the board and are spring loaded into the housing in the same manner as a conventional cigarette lighter.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 8–20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl (4,286,262) in view of Heitschel et al. (4,988,992).

Regarding claims 1 and 14, Wahl teaches a transmitter 20 in the cigarette lighter (Figs. 2–3, col. 5, lines 52–68) comprises emitter via antenna L1 wherein a radio signal or carrier signal of predetermined frequency is transmitted to open the garage

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door and garage door 60 includes radio receiver 61 (col. 5, lines 36–43).

Furthermore, Wahl teaches transmitter board 31 (col. 3, line 63 to col. 4, lines 2) including a transmitter 20 for generating predetermined frequency; and a housing including a power wire (Fig. 2, col. 3, line 63 to col. 4, line 11, contact via bolt 27 or positive side) and a ground wire (Fig. 2, col. 3, line 63 to col. 4, line 11, ground via spring 22 or negative side) which are each connected to said board 31 and which are spring-loaded into said housing (Fig. 2, col. 3, line 63 to col. 4, line 11, spring 22 provides resistance and electrical contact to hold the housing) and an antenna L1 coupled to said transmitter board 32 (Fig. 3).

But Wahl is silent on encoded carrier signal and a transceiver microprocessor.

However, Heitschel teaches, in the art of small transmitter system, encoded carrier signal (col. 1, lines 13–35) and a transceiver microprocessor (Fig. 2, transceiver 24 comprising memory 66, decoder 68, encoder 78, comparator 60, pseudo-random generator 56) for the purpose of providing security. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include encoded carrier signal and a transceiver microprocessor in the device of Wahl because Wahl suggests a radio signal or carrier signal of predetermined frequency and Heitschel teaches encoded carrier signal and a transceiver microprocessor for the purpose of providing security.

Regarding claims 15–16, Heitschel continues, as claimed in claim 14, to teach said remote receiver (Fig. 3, receiver) receives said coded serial pulse train (col. 1, lines 13–35, unique secret code), and said external device (ED) is garage door 92 (Fig. 3).

Regarding claim 8, Heitschel continues, as claimed in claim 1, to teach external device or transceiver 24 (Fig. 1) by transmitting said carrier signal from said emitter 84 (Fig. 2).

Regarding claims 9–13 and 17–20, Heitschel continues, as claimed in claims 8 and 16, to teach
said external device is a garage door opener (col.2, lines 28–33, control equipment, such as garage door opener) ,
a security gate associated with security system (col.2, lines 28–33, control equipment, such as security gate is analogous to garage door in providing access to the area or zone),
a security alarm associated with security system (col.2, lines 28–33, control equipment, such as a security alarm is one of security equipments being controlled or activated),
an exterior light gate (col. 1, lines 13–21; col.2, lines 28–33, control equipment, such as lighting system) and
an interior light (col. 1, lines 13–21; col.2, lines 28–33, control equipment, such as lighting system).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl in view of Heitschel as applied to claim 1 above, and further in view of Lennington (4,325,146).

Regarding claim 2, Wahl in view of Heitschel teaches the trafficking the vehicle through gate (col.2, lines 28–33, control equipment, such as garage door opener).

But Wahl in view of Heitschel is silent on monitoring traffic passing through said gate (CG) using a computer coupled to said gate (CG).

However, Lennington teaches, in the art of small transmitter system, monitoring traffic passing through said gate 9 (CG) using a computer 16 coupled to said gate 9 (CG) (Fig. 1, col. 2, lines 54 to col. 3, line 5, authorized vehicle entry coupled to computer) for the purpose of providing security. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include monitoring traffic passing through said gate (CG) using a computer coupled to said gate (CG) in the device of Wahl in view of Heitschel because Wahl in view of Heitschel suggests vehicle entry through garage door and Lennington teaches monitoring traffic passing through said gate (CG) using a computer coupled to said gate (CG) for the purpose of providing security.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl in view of Heitschel and Lennington.

Regarding claims 4 and 6, Lennington continues, as claimed in claim 2, to teach authorized vehicles associated with temporary access and service personnel (col. 3, lines 1–5, arrival time of authorized vehicle is recorded).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl in view of Heitschel and Lennington as applied to claim 2 above, and further in view of Zeinstra (4,827,520).

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Regarding claim 5, Wahl in view of Heitschel and Lennington is silent on integrating a voice recognition system to permit access to said gate (CG) based on a vocal input.

However, Zeinstra teaches, in the art of small transmitter system, integrating a voice recognition system to permit access to vehicle accessories based on a vocal input (col. 1, lines 6–10) for the purpose of providing non-manual control. Furthermore, one skilled in the art recognizes said gate and vehicle door provide same access barrier.

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include integrating a voice recognition system to permit access to said gate (CG) based on a vocal input in the device Wahl in view of Heitschel and Lennington because Wahl in view of Heitschel and Lennington suggests vehicle entry through garage door and one skilled in the art recognizes integrating a voice recognition system to permit access to said gate (CG) based on a vocal input for the purpose of providing voice actuated control.

Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl in view of Heitschel and Lennington as applied to claim 2 above, and further in view of Van Ness (4,665,395).

Regarding claims 3 and 7, Wahl in view of Heitschel and Lennington is silent on controlling said computer through a telephone system and recording images of traffic passing through said gate (CG) using a video system integrated with said computer.

However, Van Ness teaches, in the art of small transmitter system, controlling said computer through a telephone system (col. 5, lines 53–57, telephone

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communication via computer) and recording images of traffic passing through said gate (CG) using a video system integrated with said computer (col. 5, lines 8-20, video associated with photoelectric device) for the purpose of providing additional control features.

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include controlling said computer through a telephone system and recording images of traffic passing through said gate (CG) using a video system integrated with said computer in the device Wahl in view of Heitschel and Lennington because Wahl in view of Heitschel and Lennington suggests vehicle entry control through garage door and Van Ness teaches controlling said computer through a telephone system and recording images of traffic passing through said gate (CG) using a video system integrated with said computer for the purpose of providing additional control features.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is 571-272-3066. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3068.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu

October 3, 2005



MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
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